

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NORTHEASTERN DIVISION

UNITED STATES OF AMERICA )

v. )

YENNIER CAPOTE GONZALEZ )

No. 2:10-00011  
JUDGE HAYNES

MOTION IN LIMINE TO EXCLUDE 404(B) EVIDENCE

Yennier Capote Gonzalez pursuant to Fed. R. Evid. 404(b) moves to exclude any 404(b) evidence that has not been disclosed by the government and specifically noticed as 404(b) evidence.

Rule 404(b) of the Federal Rules of Evidence provides as follows:

Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or the absence of mistake or accident, provided that upon request by the accused, the prosecution in a criminal case shall provide reasonable notice in advance of trial, or during trial if the court excuses pretrial notice on good cause shown, of the general nature of any such evidence it intends to introduce at trial.

Fed. R. Evid. 404(b). To date, the Government has not provided notice of its intent to introduce any 404(b) evidence at trial. 404(b) evidence, which has not been noticed by the government, should be excluded. Should the government endeavor to introduce any such evidence, the Court should be approached out of the hearing of the jury so that the defense may respond and the Court may determine whether such evidence is admissible.

*ORDER*  
*This motion is DENIED without prejudice to renew given the government's notice. The Court will conduct an out-of-the-jury conference as to any production statement.*  
*Will J. Haynes*  
*2-13-12*